MOTOR TRANSPORT BOARD
ANNUAL REPORT
1997/1998

MAY 1998

Yukon

Community and Transportation Services
Motor Transport Board

CHAIRPERSON'S REMARKS:

On behalf of the Motor Transport Board I take pleasure in presenting the Annual Report for the fiscal year 1997-98.

The Board currently has three members out of possible six. Vice Chair, Mr. Pat Hayduck and Dawson City member Mrs. Allanah Fuhre continue to show commitment and dedication to the Board, the Yukon and Yukoners. Our Board could not function without the interest, commitment and support of our Board Secretaries, Kim Bicudo and Laurie Mimee, who job-share the position in a six month rotation.

The most pressing issue the Board finds itself dealing with continually is the Federal Government push for more and more deregulation by the year 2000. We are very concerned that the regulatory requirements in the Yukon will not dovetail in with the new Federal regulatory requirements and direction. With this in mind we ask that you spend some time reviewing parts 4.a and 4. b of our report.

The Board has spent considerable time this past year on the issues of bussing, specifically Charter and Tour Bussing. A "Cease and Desist" order issued to a carrier in order to insure safety of their passengers and the travelling public made us very aware of the many difficulties faced to stop a carrier quickly and remain within the confines of the existing Act and Regulations. The Cease and Desist Order required the combined efforts of the Head of Weigh Scales, Highway Enforcement personnel, the Manager of Transport Services and the Secretariat and Members of the Board. Legal council was also consulted. It is evident that the process is cumbersome and needs review.

The Board continues to work with policy to regulate the bussing industry and has spent many hours debating the definitions for Charter and Tour. Pressure for the industry to protect existing Yukon based carriers and thus service to the communities has been countered with pressure from the Yukon Tourism Industry to allow access by "outside" companies to ensure a viable industry. The Board finds itself constantly looking at its "Goals and Objectives" (Section 1, What is the Yukon Motor Transport Board and What is its Mandate?) and finds no easy solution to satisfy all Yukoners.

Deregulation in 2000 is also slated for some bussing. The Board anxiously waits for direction from the Territorial Government on this issue.

We are confident that the Yukon Government will choose a fair and equitable transportation strategy for the future of Yukon and Yukoners. The year 2000 is less than 2 years away.

Sincerely,

Jean Murphy
Chair

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1. What is the Yukon Motor Transport Board and what is its mandate?

The Yukon Motor Transport Board is a six-person board appointed by the Minister of Community and Transportation Services, pursuant to Section 3 of the Yukon Motor Transport Act.

The Board is represented by:

Jean Murphy	Chair	Whitehorse
Pat Hayduck	Vice-Chair	Whitehorse
Allanah Fuhre	Member	Dawson City
Vacant	Member	Watson Lake
Vacant	Member	Whitehorse
Vacant	Member	Haines Junction

The Board mandate is to administer and monitor for-hire transportation in and for the Yukon, primarily in the public interest, in accordance with the Yukon *Motor Transport Act* (MTA) and the Federal *Motor Vehicle Transport Act* (MVTA).

Goals and Objectives:

- Promote and maintain, in the public interest, an adequate transportation system for the betterment of economic and social development of the Yukon and Canada.

- Maintain a sufficient degree of protection for the consuming public within Yukon by subjecting for-hire transportation to minimum conditions of license.

- Continue to develop a regulatory system, through policy development, that is responsive, flexible and effective in relation to the interests of the public, the carrier, and the shipper.

Administrative support to the Board is provided by the Transport Services Branch of Community & Transportation Services.

Secretarial services to the Board is provided by a Job Share position, Mrs. Kim Bicudo from November 01/95 - May 30/96, Mrs. Laurie Mimee from June 01/96 - October 31/97.

The Board's legal counsel is Mr. Paul O'Brien of the firm O'Brien and Associates.

The Board's office is located at:

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2. Application Process

a) Legislative Requirements

Intra-Territorial (point-to-point movement of goods within Yukon) operating authority is mandated by the Yukon *Motor Transport Act, MTA,* under a "Reverse Onus" regulatory regime.

Extra-Territorial (movement of goods into AND/OR out of Yukon) operating authority is mandated by the Federal *Motor Vehicle Act, MVTA,* under a "Fitness Only" regulatory regime.

A TOTAL of 123 initial, amendment and renewal applications for operating authority were processed under both the Federal *MVTA* and the Yukon *Motor Transport Act.*

Application Type	Number of Applications	Yukon Based Carriers	Others
Intra-Territorial	11	11	0
Extra-Territorial	55	7	48
Bus/Taxi	11	9	2
Renewals	46	10	36
TOTAL	123	37	86

2. b) Intra-Territorial Freight Applications

Intra-territorial applications for operating authority are governed by the Yukon *Motor Transport Act* and *Licensing Regulations* under the "Reverse Onus" regime.

As a result of a lobby from the Yukon Transportation Association and Public Hearings held in 1990, all intra-territorial freight applications for operating authority became subject to minimum "Conditions of License" .

2. b) Intra-Territorial Freight Applications, con't.

Minimum "Conditions of License" requires the applicant:

- be available in Yukon on a year round basis;
- maintain a Yukon base of operation, staffed by at least one full-time employee or agent; and
- establish and maintain a year-round business telephone directory listing in Yukon, with telephone service being available during all normal business hours.

A total of 11 Intra-Territorial certificates of operating authority were issued in 1997/98, all applicants were Yukon based.

2. c) Extra Territorial Freight Applications

Extra-territorial applications for operating authority to transport goods into or out of Yukon are governed by the federal *Motor Vehicle Transport Act* (MVTA). The MVTA mandates provincial/territorial boards and commissions to regulate extra-provincial/territorial application under "Fitness Only".

A total of 55 Extra-Territorial certificates of operating authority were issued in 1997/98, of which 7 applicants were Yukon based.

Extra Territorial applications received from other jurisdictions by the end of the fiscal year totalled 48 as follows:

	Home Jurisdiction	# of Applicants
Domestic	British Columbia	14
	Alberta	21
	Saskatchewan	5
	Provinces East of Manitoba	3
International	Southern 48 US States	3
	Alaska	2

2. d) Bus/Taxi Applications

The Board issued 11 certificates of operating authority for bus/taxi, of which 9 applicants were Yukon based.

2. e) Renewal Applications

The Board renewed 46 certificates of operating authority of which 10 applicants were Yukon based, and 36 from:

Home Jurisdiction	# of Applicants
British Columbia	20
Alberta	10
Provinces east of Manitoba	4
USA	2

2. f) Temporary Certificates of Operating Authority

Temporary certificates of operating authority can be purchased at any point-of-entry weigh station by those who do not hold permanent authority. Temporary certificates are issued at a cost of $150.00 per single trip and are limited to six per company/person per calendar year.
A total of 286 temporary certificates were issued in 1997/98 in comparison with 276 in 1996/97.

2. g) Board Orders

In 1997/98 a total of 60 Board Orders were issued:

Type of Board Order	# of Board Orders
Suspensions	19
Reinstatements	15
Cease and Desist	1
Conditions of Licence	19
Revocation, non-compliance	6

It is Board policy to suspend operating authority when required minimum insurance is downgraded or cancelled by a carrier. Upon receipt of required insurance filings the authority is reinstated. This policy was implemented to assist in reducing industry costs when operating seasonally. There were 68 Authority Suspensions in force at year end.

Cease and Desist orders are issued to prohibit a carrier from continuing unlicensed operations.

Conditions of License are issued through Board order and, upon compliance, become part of the issued authority. Non-compliance to conditions of license may result in the revocation of intra-territorial authority.

3. Business Meetings

Four business meetings, totalling four meeting days, were held in 1997/98, normal business included:

- briefings on national initiatives and legislative changes;
- cross-border difficulties, BC/Yukon;
- policy development;
- conditions of license;
- compliance reviews;
- various enforcement issues; AND
- review requests for name changes, amalgamations, and share transfers;

Two of these four meetings were Special Meetings called to deal with Bus Service issues:

Premier Pacific Coach Lines Inc. - is authorized by the Board to conduct Tour Bus Service which allows for seasonal services. Industry complaint was received that Premier Pacific is providing Charter Bus Services whereby advertising and opportunity for objection are required as well as year round conditions of license. The Board met with Premier Pacific and the Tourism Industry Association of Yukon and requested a written submission of the services offered by Premier.

Premier Pacific Coach Lines Inc., Con't. - Upon review of this submission along with the investigation report filed by enforcement personnel, the Board was of the opinion that Premier Pacific was providing Charter Bus Services as defined by Board Definition. Board Legal council responded to Premier and advised that a Charter Bus License was required. A grace period was granted to Premier Pacific to continue operating under Tour Bus Service until January 01, 1999 at which time a Charter Bus License must be obtained to continue operations.

Alaska Direct Bus Lines, Inc. - The Safety Rating for this carrier was downgraded from Satisfactory to Unsatisfactory by the National Safety Code office for safety infractions. The Board met with Alaska Direct, National Safety Code Personnel, Enforcement Personnel and the Manager of Transport Services. Alaska Direct admitted to the safety infractions and has complied with safety requirements. This carrier currently holds a Conditional Safety Rating and remains under review.

A resolution to this issue involved a number of Transportation Officials and many hours to meet, consult, and correspond. It was very clear that the Motor Transport Act and Regulations need to be reviewed and amended to adequately meet "Safety and Fitness" criteria.

3. a) <u>Compliance Reviews:</u>

"Conditions of License" have been applied to all Intra-Territorial operating authorities issued since 1990. The conditions ensure investment in the Territory by persons/companies transporting goods or people within the Yukon. Minimum conditions also ensure the availability of transportation services in the Yukon, on a year-round basis. When conditions of license were first introduced, Board policy was to accept a signed statement of compliance from the applicant as "proof of compliance". Subsequently, however, it was found that some carriers did not continue to comply with the conditions or maintain a Yukon base of operation. This non-compliance jeopardized the integrity of applying conditions of license, and the system needed to be reviewed. Subsequently, the Board developed policy on compliance reviews, and each Board member now participates in the review of carriers in his/her region of the Yukon.

3. a) Compliance Reviews, Con't.:

32 compliance reviews were conducted in 1997/98, resulting in 6 revocations due to non-compliance. There are currently 25 compliance reviews to be carried out in 98/99.

3. b) Enforcement

The transportation industry is primarily self-regulated and as such, the Board receives many complaints regarding alleged contravention of the Motor Transport Act and Regulations. Normal procedure for the Board office is to advise the alleged contravene of his/her licensing requirement(s) to provide a "for-hire" transportation service. The Board office does the best it can with limited resources to ensure that licensing costs are the same for competing carriers.

This year the Board received complaints of Board Policy (Bus Service Definitions) being ineffective when not enforced. The complaints were specific to Tour Bus operators providing Charter Bus Services. The Board office has been issuing Bus authorities in accordance with the Bus Service Definitions Policy for the past 4 operating seasons and agrees that Policy enforcement is a requirement.

With assistance from Highway Enforcement, the Board requested all passenger carrying vehicles be stopped and the following documentation reviewed:

- drivers' licenses to ensure the right class of licenses were held;
- operating authorities;
- passenger manifests to ensure operators were operating within the scope of the operating authority issued and as defined by Board Policy; and
- log books if necessary.

This enforcement was effective in getting non-licensed carriers to apply for the appropriate licensing to ensure fair competition in the market place.

The Board acknowledges that enforcement is an integral part of regulating the industry and would like to recognize the efforts of Transport Services' enforcement personnel for their co-operation, hard work, and professionalism.

3. c) Policy Development

The Board continues to develop and amend policies and procedures regarding various Board issues. This ongoing project provides valuable guidance on every aspect of Board business for the Board, its support staff, industry and government.

3. d) Legislative Change

The Board continues to monitor and identify required changes within the Yukon *Motor Transport Act* and *Motor Transport Licensing Regulations* in an attempt to streamline legislative requirements for the Yukon Motor Carrier Industry.

4. a) Trucking Deregulation

Background - Prior to 1988, motor carrier licenses were issued under a "Public Need and Convenience" regime, whereby public support was required for application for a motor carrier license. In 1988, the "Reverse Onus" regime was adopted by Yukon which requires that an objector prove that the granting of an application would be detrimental to the public interest. "Reverse Onus" was introduced by the Federal Government under the *Motor Vehicle Transport Act (MVTA)* for a five year transitional purpose in the move toward a "Fitness Only" regime. "Fitness Only" is deregulation of the motor carrier industry whereby all vehicles over 4,500 kg are monitored by the National Safety Code (NSC) Program.

The Federal Government initially proposed to repeal Part III (Intra-Provincial movement of goods by Extra-Provincial truck undertakings) of the *Motor Vehicle Transport Act* (MVTA) as of January 01, 1998, under the Legislative authority of the federal *Agreement on Internal Trade Implementation Act* (1996). However, Quebec and BC raised concerns regarding Local Bulk Trucking and asked for an extension to the Repeal. A *MVTA Review Project Group* was appointed to investigate the impact of repeal of Part III of the MVTA on local truck regulation across Canada.

4. a) Trucking Deregulation, Con't.

The *MVTA Review Project Group* identified the following issues to be addressed and documented:

i) The problems and consequences relative to repeal of Part III of the MVTA;

ii) The impact of repeal on intra or bulk trucking;

iii) Access to local markets for carriers from adjoining jurisdictions;

iv) A review of procurement and construction policies and procedures;

v) The relationship between the preceding four items and potentially conflicting provisions in the Agreement on Internal Trade (AIT) as it applies to MVTA.

Subsequently, the *Project Group* identified the following three options to be reviewed by ALL jurisdictions:

i) Repeal Part III of the MVTA on schedule (January 1, 1998);

ii) Delay repeal of Part III until January 1, 2000. The provinces which retain economic controls will address access issues by carriers from neighbouring jurisdictions by January 1, 1998;

iii) Repeal Part III for specified sectors on January 1, 1998, but allow for regulation of government and private construction bulk until January 1, 2000.

The Government of Yukon supported option #2, with the provision that BC clarify how access will be provided. The Board is currently not satisfied with the commitments made by BC and will endeavour to address this issue with Yukon Transportation Officials as it directly relates to the **Transborder Difficulties** being encountered by members of the Yukon Trucking Industry.

4. a) Trucking Deregulation, Con't.

The *Project Group* was to report to the Council of Deputy Ministers on March 09, 1997. As the minutes of this meeting have not been distributed, the Board is at this time unaware of the recommendations put forward by the *Project Group* nor is it aware of any decisions made by the Council of Deputy Ministers as a result of any recommendations put forward.

In **February 1998**, the federal government distributed a "Position Paper" on the issue of deregulation. The objectives of the federal government is to amend the federal *Motor Vehicle Transport Act, MVTA* to create a renewed national legislative framework to support a safe, competitive and efficient motor carrier industry.

In considering changes to the Act, Transport Canada proposes to:

- Create a Canadian regulatory regime for all extra-provincial motor carriers, focused on motor carrier safety performance assessment, administered by the provinces, and based on the National Safety Code;
- Ensure all motor carriers operating within the federal jurisdiction are subject to consistent regulatory treatment;
- Establish the principle of, and the mechanisms for, reciprocal recognition of motor carrier safety performance assessments with foreign governments; and
- Complete the deregulation of extra-provincial motor carrier undertakings concurrently with the coming into force of the MVTA motor carrier safety performance assessment regime.

Transport Canada proposes January 01, 2000 as a target date for implementation of the Safety Performance regime.

The basic principle underlying these objectives is that any fleet of vehicles operated by an extra-provincial motor carrier, and safety-assessed in a jurisdiction recognized under the provisions of the Act, would be permitted to operate throughout Canada, provided it maintains an acceptable safety performance assessment.

4. a) Trucking Deregulation, Con't.

The Board is concerned with how and when the Yukon Government will implement "Fitness Only" and has actively encouraged legislative change by:

I) recommending a full legislative review, 1995;
ii) recommending an action plan be developed for program change/transition, 1995;
ii) recommending the appointment of a working group, 1996;
iii) meeting with the Minister of Community & Transportation Services and requesting political direction, 1996; AND
iv) authorizing Board funds to sponsor a legislative review, 1997.

The Board met with the Honorable Mr. Bill Brewster in June of 1996 to discuss a serious concern for the future regulatory regime of the Yukon transportation industry and wanted to stress the importance of political direction in this regard. The Yukon Government was requested to take a position regarding the future regulatory regime of Intra-Territorial transportation.

Although the target date 1998 appeared a long way off, the Board stressed the importance of establishing an action plan immediately to prepare and secure a future transportation licensing regime that would not only provide Yukon people and business with the free movement of goods and people within Canada, but would also protect the erosion of local transportation infrastructure and year-round services to Yukoners.

It was also noted that Yukon needed to review and compare licensing and safety requirements between Yukon and BC in order to encourage equal and fair transportation practices (see Item #5 of this report - "Transborder Difficulties").

Mr. Brewster made it very clear that he supported full deregulation and advised the Board to continue operating "as is" and follow the lead of BC in the deregulation process. The Board interpreted this to mean that Yukon will not implement deregulation before BC does and no changes were implemented.

4.b) Bus Deregulation

Transport Canada is proposing amendment to the *Motor Vehicle Transport Act, MVTA,* to Deregulate Extra-Territorial Passenger Transportation.

The federal government is committed to limiting the use of economic regulation to those circumstances where such regulation is necessary to serve the needs of shippers and travellers.

The range of opinion among the provinces is reflected in a growing diversity among the provincial bus regimes. This situation is compatible with the current MVTA. However, it is becoming a source of concern for both the federal government and some provinces and stakeholders. Regulatory diversity among the provinces disadvantages some carriers, adds to the administrative burden on all carriers, and impedes the movement of passengers.

It is proposed to use the *MVTA* to achieve an acceptable level of regulatory consistency throughout the country and Full Deregulation of the Canadian extra-provincial bus industry is being recommended.

The immediate proposed changes to the *MVTA* (Task Force Recommendations) will have little or no effect on the current bus regulatory regime of the Yukon Motor Transport Board. The Yukon *Motor Transport Act, (MTA)* requires all passenger carrying vehicles have operating authority but other than a few regulations pertaining to Scheduled Bus Services, it is silent of any other regulatory requirements.

The Board identified a need to develop ***guiding principles***, and has adopted policy to assist in fostering an open and competitive Tour Bus Industry without eroding the infrastructure of the year-round Scheduled Bus Service Industry which is essential for many Yukon communities.

5. Transborder Difficulties with BC

Yukon continues to experience difficulties with licensing requirements in BC for the transportation of logs and gravel. The Yukon *MTA* specifically exempts Logs and Gravel from requiring operating authority, allowing BC carriers unlimited access to Yukon markets while BC maintains economic control over this market. With the federal government decision to extend Repeal of Part III of the *MVTA* until January 01, 2000, the Yukon must contend with this licensing inequity with BC for another two years.

The Board understands that the Department of Community and Transportation Services is currently working on a reciprocal agreement with BC to achieve fair market access for these commodities between jurisdictions over the next few years.

6. Revenue and Expenditures

a) Revenue:

Revenue from applications, identification plates, and temporary operating authority certificates, generated $97,705 in 1997/98, in comparison with $93,615 in 1996/97.

b) Expenditures:

During the 1997/98 fiscal year the Board's expenditures were as follows:

	1997/98	1996/97
Travel	1,784.00	2,791.00
Honoraria	4,723.00	3,656.00
Legal Consultation	3,195.00	5,741.00
Meeting/Hearing Expenses	00.00	364.00
Advertising	5,418.00	6,257.00
Communications, Supplies & Mics.	2,664.00	1,035.00
TOTAL	$17,784.00	$19,844.00

7. CCMTA Annual Conference - May 1997

Due to financial restraint, there was no Board representation at the Annual Conference of the Canadian Council of Motor Transport Administrators (CCMTA). The Board continues to receive documentation of all CCMTA issues, papers, discussions, etc.
Current CCMTA issues of concern to the Board:

- the national trend to discontinue issuance of extra-provincial/territorial operating authority;
- developments from the Task Force on Enforcement;
- proposed new safety and fitness testing; and
- new developments under the National Safety Code Program.

9. Plans for 1998/99

With a declining mandate for Public Hearings and Application Review, the primary objectives of the Board for 1998/99 are to:

- Aid/assist Government and Industry in the transition to a "Fitness Only" environment which will require Government direction and legislative changes;
- Continue to keep a pulse on Yukon based industry by monitoring and enforcing Intra-Territorial Conditions of License; and
- Further develop the Bus Service Industry to meet the needs of all Yukoners, both Tourism and Community Service.

For further information regarding Board business, or matters referred to in this report, please feel free to contact the Board Office at (403) 667-5782 or E-Mail, Kim.Bicudo@gov.yk.ca